IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Crl.MC.No. 2078 of 2007()

CC.474/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR
CRIME NO.26/99 OF ALATHUR POLICE STATION

.....

PETITIONER: ACCUSED

MOHANAN, S/O. PONNAN, AGED 40 YEARS,
RESIDING AT VATTAKALLINGAL HOUSE, TARUR P.O.,
ALATHUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
ALATHUR POLICE STATION, PALAKKAD DISTRICT.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2078 OF 2007

Dated this the 28th day of June, 2007

ORDER

The petitioner faces indictment in a prosecution underSec.498A of the IPC. The petitioner had appeared before the learned Magistrate and was enlarged on bail. But on a subsequent date of posting, dismissing the application of the petitioner to excuse his absence, a non-bailable warrant of arrest was issued against the petitioner. According to the petitioner, his absence was not wilful. He could not appear on the date of posting because on that day the marriage of the sister of the petitioner was to be solemnised. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and

expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge